

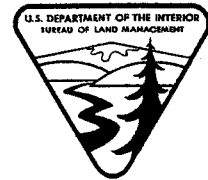
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United States Department of the Interior

BUREAU OF LAND MANAGEMENT FILLMORE FIELD OFFICE

35 East 500 North
Fillmore, UT 84631
<http://enbb.blm.interwebdesign.com>



In Reply Refer to:
3800
(U-010)
UTU-075888
UTU-079454

July 25, 2001

CERTIFIED MAIL # 71000 1530 0006 2414 7671
RETURN RECEIPT REQUESTED

DECISION

GEORGE FINNEGAN	:	
RESOURCE DESIGN SOLUTIONS INC	:	REVISED
P O BOX 1178	:	SURFACE MANAGEMENT
RIVERTON UT 84065	:	NONCOMPLIANCE ORDER

On May 10, 2001, the Bureau of Land Management (BLM) Fillmore Field Office issued Mr. Joe Dunlop of Resource Design Solutions (RDS) Inc., a surface management noncompliance order (see enclosed order), which was received by you on May 14, 2001. This order stated the BLM afforded RDS four opportunities to reclaim the 1.6 acres of disturbance in excess of their accepted notice under the old 43 CFR 3809 regulations. Since the required reclamation was not conducted during the agreed upon deadlines, RDS is in violation of eight (8) of the new 43 CFR 3809 regulations that went into effect as of January 20, 2001 (violations; 43 CFR 3809.11, 3809.300, 3809.401, 3809.415, 3809.415(a), 3809.420, 3809.500, 3809.601).

After further review of this matter, our office found that RDS is also in noncompliance with regulation **43 CFR §3715.5(b)**, which states; "Your uses must conform to all applicable federal and state environmental standards and you must have obtained all required permits before beginning, as required under 43 CFR part 3800. This means getting permits and **authorizations** and meeting standards required by state and federal law, including, but not limited to, the Clean Water Act (33 U.S.C. 1251 et seq), Clean Air Act (42 U.S.C. 7401 et seq), and the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq), as required under 43 CFR part 3800". A copy of these regulations is enclosed for your convenience.

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As of the May 10th noncompliance order, RDS did not have **authorization** from Utah Division of Oil, Gas and Mining (UDOGM) to operate a large mine (excess of five acres), and thus is in violation with the above mentioned regulation.

In addition, since the May 10th noncompliance order, the BLM has received documentation from you and Mr. Dunlop, stating that you are now the president and primary contact for RDS. Such actions constitutes a change of contact, not a change of operators. RDS (George Finnegan, President) is still accountable for the above mentioned noncompliance order.

RDS was given 60 (sixty) days from the receipt of the May 10th noncompliance order to correct all items in noncompliance, which was July 14, 2001. However, since there is a violation of regulations that was not mentioned in the previous noncompliance order, the BLM with concurrence from UDOGM will afford RDS an extension on all BLM noncompliance issues until August 20, 2001. This means you have until August 20, 2001, to:

1. Submit a complete and technically adequate, highly detailed Plan of Operation that contains all required information stated in § 3809.401, (Operator Information, Description of Operations, Reclamation Plan, Monitoring Plan and Interim Management Plan and Reclamation Cost Estimate) before August 20, 2001. Until the submitted plan of operations is accepted, no additional earth disturbing activities may occur at the site.
2. Submit an acceptable financial guarantee (43 CFR 3809.555) prior to work commencing on the ground.
3. Resolve the Notice of Violation with the State of Utah, Minerals Reclamation Program.

On June 6, 2001 our office received a plan of operation (POO) for your mining related activity located in the E½ Section 35, T. 12 S., R. 7 W. SLBM. After an initial review of your POO, we have determined that it does not contain all the information required in 43 CFR 3809.401. It would be best to contact our office to discuss the additional information that is required to make your POO complete.

Also, we have been in contact with UDOGM concerning the financial guarantee (transitional surety) in the amount of \$33,250.00 that they are requiring you to post. That surety must be in place by August 20, 2001. In addition, this surety must be redeemable by both UDOGM and BLM (contact UDOGM for surety details).

Failure to comply with this or the previous Noncompliance Order may result in appropriate civil and criminal penalties in accordance with 43 CFR 3809.700, and 43 CFR 3715.8.

If you do not agree and are adversely affected by this decision, in accordance with 43 CFR 3809.804, you may have the Utah BLM State Director review this decision. If you request a State Director review, the request must be received in the Utah BLM State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive this decision. A copy of the request must also be sent to this office. The request must be in accordance with the provisions provided in 43 CFR 3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a stay is granted by the State Director. Standards for obtaining a stay are given below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the Utah State Director does not make a decision on whether to accept your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You then have 30 days in which to file your notice of appeal with the IBLA (see procedures below).

If you wish to bypass the State Director review, this decision may be appealed directly to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

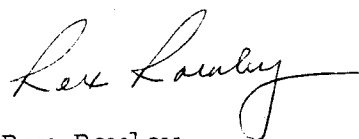
Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

If you have any questions regarding this noncompliance order, please call Larry Garahana at (435)743-3126.

Sincerely,



Rex Rowley
Field Manager

Enclosures: May 10, 2001, Noncompliance Order (4 pg)
Copy of CFR 3715.5 (1 pg)

cc: UT-923

D. Wayne Hedberg, UDOGM (S/023/066)

Joe Finnegan, 27 Lone Hollow Dr, Sandy, UT 84092

Jerome and Mindy Thorne, 12340 S. Redwood Rd, Riverton, UT 84065

Resource Design Solutions, 12340 S. Redwood Rd, Riverton, UT 84065

Joe Dunlop, 2236 Karalee Way, Sandy, Utah 84092

Mike Hildreth, 3052 Tinamous Rd, Eagle Mountain, UT 84043

Jack Finnegan, 10117 S. Canterwood Ct, South Jordan, UT 84095